

AMENDED IN SENATE MARCH 31, 2009

SENATE BILL

No. 350

Introduced by Senator Yee

February 25, 2009

An act to amend Section 9875.1 of the Business and Professions Code, and to amend Section 27317 of the Vehicle Code, relating to motor vehicle insurance.

LEGISLATIVE COUNSEL'S DIGEST

SB 350, as amended, Yee. ~~Motor vehicle insurance: automobile repairs: restraint systems. Aftermarket crash parts.~~

Existing law prohibits an insurer from requiring the use of nonoriginal equipment manufacturer aftermarket crash parts in the repair of an insured's motor vehicle unless the ~~insured~~ consumer is advised in a written estimate before repairs are made that nonoriginal equipment manufacturer aftermarket crash parts will be used.

This bill would, in addition to the advisement, prohibit the use of the nonoriginal equipment manufacturer aftermarket crash parts unless the parts are also at least of like kind and quality to the parts being replaced, as specified.

Existing law makes it a misdemeanor for any person to install or reinstall for compensation any previously deployed air bag that is part of an inflatable restraint system if the person knew that the air bag had been previously deployed.

This bill would, in addition, make it a misdemeanor for any person to install or reinstall for compensation any previously damaged air bag that is part of an inflatable restraint system if the person knew that the air bag had been previously damaged. This bill would also make it a misdemeanor for any person who has actual knowledge that the airbag

~~portion of an inflatable restraint system has been previously deployed or damaged to cause another person to fail to fully restore, arm, and return the airbag to original operating condition, as specified.~~

~~Because this bill would expand the definition of an existing crime, it would impose a state-mandated local program.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

This bill would, in addition, prohibit the use of nonoriginal equipment manufacturer aftermarket crash parts unless the insurer warrants that those parts are at least equal to the original equipment manufacturer parts in terms of kind, quality, safety, fit, and performance and shall pay the cost of any modifications to those parts necessary to effect the repair. The bill would also require all original and nonoriginal equipment manufacturer aftermarket crash parts, manufactured on or after January 1, 2010, when supplied by auto body repair shops, to contain specified identification.

Vote: majority. Appropriation: no. Fiscal committee: ~~yes-no~~. State-mandated local program: ~~yes-no~~.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 9875.1 of the Business and Professions
- 2 Code is amended to read:
- 3 9875.1. (a) No insurer shall require the use of nonoriginal
- 4 equipment manufacturer aftermarket crash parts in the repair of
- 5 an insured's motor vehicle, unless *all of the following requirements*
- 6 *are met:*
- 7 (1) *The insurer warrants that the nonoriginal equipment*
- 8 *manufacturer aftermarket crash parts are at least equal to the*
- 9 *original equipment manufacturer parts in terms of kind, quality,*
- 10 *safety, fit, and performance.*
- 11 (2) *The insurer shall pay the cost of any modifications to the*
- 12 *parts that may become necessary to effect the repair.*
- 13 (3) *The insurer shall advise the consumer is advised in a written*
- 14 estimate of the use of nonoriginal equipment manufacturer
- 15 aftermarket crash parts before repairs are made. In all instances

1 where nonoriginal equipment manufacturer aftermarket crash parts
2 are intended for use by an insurer:

3 (a)

4 (A) The written estimate shall clearly identify each such part
5 with the name of its nonoriginal equipment manufacturer or
6 distributor.

7 (b)

8 (B) A disclosure document containing the following information
9 in 10-point type or larger type shall be attached to the insured's
10 copy of the estimate: "This estimate has been prepared based on
11 the use of crash parts supplied by a source other than the
12 manufacturer of your motor vehicle. Any warranties applicable to
13 these replacement parts are provided by the manufacturer or
14 distributor of the parts, rather than by the original manufacturer
15 of your vehicle."

16 *(b) All original and nonoriginal equipment manufacturer*
17 *aftermarket crash parts, manufactured on or after January 1, 2010,*
18 *when supplied by auto body repair shops, as defined in Section*
19 *9889.51, shall carry sufficient permanent, nonremovable*
20 *identification so as to identify the manufacturer, and this*
21 *identification shall be accessible to the greatest extent possible*
22 *after installation.*

23 ~~SECTION 1. Section 9875.1 of the Business and Professions~~
24 ~~Code is amended to read:~~

25 ~~9875.1. An insurer shall not require the use of nonoriginal~~
26 ~~equipment manufacturer aftermarket crash parts in the repair of~~
27 ~~an insured's motor vehicle, unless the aftermarket crash parts are~~
28 ~~at least of like kind and quality to the part being replaced in terms~~
29 ~~of fit, function, and finish. Aftermarket replacement crash parts~~
30 ~~certified to meet the standards set by an American National~~
31 ~~Standards Institute (ANSI)-recognized entity shall be presumed to~~
32 ~~be at least of like kind and quality as the part being replaced in~~
33 ~~terms of fit, function, and finish. The insurer shall advise the~~
34 ~~consumer in a written estimate of the use of nonoriginal equipment~~
35 ~~manufacturer aftermarket crash parts before repairs are made. In~~
36 ~~all instances where nonoriginal equipment manufacturer~~
37 ~~aftermarket crash parts are intended for use by an insurer:~~

38 ~~(a) The written estimate shall clearly identify each such part~~
39 ~~with the name of its nonoriginal equipment manufacturer or~~
40 ~~distributor.~~

1 (b) ~~A disclosure document containing the following information~~
2 ~~in 10-point type or larger type shall be attached to the insured's~~
3 ~~copy of the estimate: "This estimate has been prepared based on~~
4 ~~the use of crash parts supplied by a source other than the~~
5 ~~manufacturer of your motor vehicle. Any warranties applicable to~~
6 ~~these replacement parts are provided by the manufacturer or~~
7 ~~distributor of the parts, rather than by the original manufacturer~~
8 ~~of your vehicle."~~

9 SEC. 2. ~~Section 27317 of the Vehicle Code is amended to read:~~

10 27317. ~~A person who has actual knowledge that the airbag~~
11 ~~portion of an inflatable restraint system has been previously~~
12 ~~deployed or damaged and who installs or reinstalls for~~
13 ~~compensation, or who distributes or sells any previously deployed~~
14 ~~or damaged air bag that is part of an inflatable restraint system, or~~
15 ~~who causes another person to fail to fully restore, arm, and return~~
16 ~~the airbag to original operating condition, is guilty of a~~
17 ~~misdemeanor punishable by a fine of five thousand dollars (\$5,000)~~
18 ~~or by confinement in the county jail for one year or by both that~~
19 ~~fine and confinement.~~

20 SEC. 3. ~~No reimbursement is required by this act pursuant to~~
21 ~~Section 6 of Article XIII B of the California Constitution because~~
22 ~~the only costs that may be incurred by a local agency or school~~
23 ~~district will be incurred because this act creates a new crime or~~
24 ~~infraction, eliminates a crime or infraction, or changes the penalty~~
25 ~~for a crime or infraction, within the meaning of Section 17556 of~~
26 ~~the Government Code, or changes the definition of a crime within~~
27 ~~the meaning of Section 6 of Article XIII B of the California~~
28 ~~Constitution.~~